



**TERO**

***TRIBAL EMPLOYMENT RIGHTS OFFICE***

**JOB BANK POLICY AND PROCEDURES**

## **SOURCE OF AUTHORITY**

The Tribe's Tribal Employment Rights Office Act Law was written to ensure that American Indians are given preference in hiring. The law is codified at NCA 12-198, NCA 13-113, NCA 14-026 and NCA 14-159 of the Muscogee (Creek) Nation Annotated Code and is administered by the Tribal Employment Rights Committee through the Tribal Employment Rights Office (TERO).

Part of the Tribal Employment Rights Office Act gives the TERO Committee authority to establish, in consultation with the Tribal Employment and Training program, a Tribal Job Bank and to require TERO Certified Vendors to not hire Non-Natives until the Tribal Job Bank has been contacted and the employer has complied with applicable law and policies.

The TERO Committee is the sole authority for making initial determinations regarding participation in the Tribal Job Bank and compliance with NCA 12-198, NCA 13-113, NCA 14-026 and NCA 14-159 of the Muscogee (Creek) Nation Annotated Code.

This policy is written to establish the Tribal Job Bank and provide rules and procedures for its use.

## **NO CONFLICT WITH TRIBE**

This policy is intended to supplement, not replace, the hiring rules, policies and procedures established by the Tribal government and its entities. If this policy conflicts with those rules, policies and procedures, the latter shall prevail.

## **NOT AN ENDORSEMENT OF QUALIFICATIONS**

Participation in the Tribal Job Bank is not an endorsement of a participant's ability to perform certain work. Covered employees are required to recruit potential employees. Neither the TERO Committee, the Tribe, nor their employees, agents, successors nor assigns are liable for actions or inactions of Job Bank Participants.

## **WHO MUST COMPLY**

TERO Certified Vendors must comply with his policy and NCA 12-198, NCA 13-113, NCA 14-026 and NCA 14-159 of the Muscogee (Creek) Nation Annotated Code. All other employers are encouraged to comply and use the Tribal Job Bank.

## **COMPLIANCE REQUIREMENTS FOR EMPLOYERS**

The key compliance requirements for TERO Certified Vendors are expressed in NCA 12-198, NCA 13-113, NCA 14-026 and NCA 14-159 of the Muscogee (Creek) Nation Annotated Code.

Because this section is central to the Employment Rights Office Act, we repeat it here in its entirety.

#### **§ 9-107. Job Bank**

- A. The TERO shall create a job bank and shall maintain a listing of individuals and their skills to be utilized by the TERO when filling job vacancies that have been negotiated with employers covered by this Act.
- B. Employers covered under this Act shall be required to utilize the Job Bank and comply with the Muscogee (Creek) Nation TERO Act and policies and procedures established under this Act. Preference shall be given to qualified Muscogee (Creek) Citizens as first preference.
- C. Employers covered under this Act do not have to hire or employ a job bank participant who is not qualified for the open position. This decision should be made in a good faith effort and the employer shall have valid reasons with documentation for not hiring a job bank referral.
- D. Employers covered under this Act shall notify the TERO of all job openings and shall submit to the TERO job descriptions, applications forms and other relevant information to comply with goals of this Act. If an employer advertises the job position, the advertisement shall state that preference will be given.

#### **§ 9-108. Preference Requirements**

- A. All employers are required to give preference to Muscogee (Creek) Citizens and Citizens of other Federally Recognized Tribes in hiring, promotions, training, and all other aspects of employment, contracting, or sub-contracting, and shall comply with this Title and the rules, regulations, and order of the TERO.
- B. The Muscogee (Creek) Nation government is an “employer” for the purposes of this title and any of its business entities shall be an employer for the purpose of this title.
- C. However, if potential contractors are otherwise equally qualified to complete the relevant contract work and respective bids are otherwise equal, the Muscogee (Creek) Nation, its entities and wholly owned corporations shall apply a preference for Indian-owned economic enterprises in procurement and contracting. Exceptions to this requirement shall be permitted when no Indian-owned economic enterprise is readily available; when other governmental entity contracts (including, but not limited to, VA or GSA contracts) are available; when more favorable pricing may be obtained; when the order meets the requirements of the Sole Source Request as defined in Acquisition policy and procedure; or in an emergency situation as determined by the Principal Chief.

1. Primary preference shall be given to certified "Indian Owned Businesses" where the Majority Owner is a Muscogee (Creek) Citizen.
  2. Second preference shall be given to other certified "Indian Owned Businesses."
    - a. A business may be certified as both an "Indian Owned" and "Major Muscogee Employer" business. In this case, such dually certified business would receive preference over other Indian-owned businesses.
- D. A contractor shall extend a preference to qualified individuals with respect to hiring each and every employment position utilizing the Muscogee (Creek) Nation TERO job bank. If the Contractor, Sub-Contractor and the TERO Office are unable to fill the job positions with qualified employees after applying the preference provisions, then the job positions may be filled by other individuals.
- E. Preference shall be given in the following order:
1. First preference shall be given to Muscogee owned businesses that are Major Muscogee Employers with at least 50 employees.
  2. Second preference shall go to Muscogee Owned Businesses.
  3. Third preference shall go to businesses that are certified as Indian Owned.
  4. Final preference shall go to those businesses that are certified as Indian Owned.
  5. Following the preferences in item 2. Above, the procurement offices of the Nation may develop policies to administer to "Locally-Owned businesses." In no instance shall this preference supersede the Muscogee (Creek) Citizen or Citizens of other Federally Recognized Tribes Preference.
  6. Any contract awarded to a general contractor may be subcontracted, provided that the Preference requirements stated in this Act apply, regardless of the level of subcontracting activity. Failure to apply Preference requirements to subcontracts shall be deemed by the TERO a violation of this Act.
  7. The Muscogee (Creek) Nation Administration may create procurement and contracting policies and procedures for application of said preference. The Muscogee (Creek) Nation procurement and/or contracting offices maintain a list of entities which have previously provided poor performance or engaged in behavior in non-compliance with contract provisions, rules, regulations, or laws.
- F. Nothing shall require the Muscogee (Creek) Nation to contract with or hire any Indian-Owned economic enterprises which have previously provided poor performance or engaged in behavior in non-compliance with contract provisions, rules, regulations or laws. The Muscogee (Creek) Nation procurement and/or contracting offices may maintain a list of entities which have previously provided poor performance or unsatisfactory work or which have engaged in behavior in non-compliance with contract provisions, rules, regulations or laws.

- G. The Nation and its entities shall maintain a “Debarment List” which shall be a list of contractors which have previously provided poor performance or engaged in behavior in non-compliance with contract provisions, rules, regulations or laws. Nothing shall require the Nation to contract with or hire any economic enterprises which have previously provided poor performance or engaged in behavior in non-compliance with contract provisions, rules, regulations or laws. Procurement offices shall develop policies and procedures to define poor performance of a contractor/employer. Documentation of poor performance shall be available and provided to the contractor upon request. The procurement offices shall forward the names of any certified Indian Owned Businesses determined to have poor performances to both the TERO for Technical assistance and Improvement.
1. Debarment list, Annual Certification; in compiling the debarment list the TERO Office shall require, on an annual basis, Employers to certify;
    - a. Compliance with the following laws, and any other such laws deemed appropriate by the TERO: Title VII of the Civil Rights Act of 1964, Americans with Disabilities Act, Equal Pay Act, Occupational Health and Safety Act, Muscogee (Creek) Nation Minimum Wage Act and Muscogee (Creek) Nation Employment Tribal Employment Rights Act.
    - b. Whether the employer is currently the subject of any investigation by any Tribal, State or Federal Government agency or the subject of any lawsuit in any tribal, state or federal court, concerning an allegation that the employer violated any law set forth above.
  2. The period of Debarment by the TERO shall be for a period of no less than two (2) years.
- H. The TERO shall address complaints of violations of the Act or the TERO Rules; and, should there be any unresolved violations by Departments of the Nation or its Business entities, the TERO shall issue reports of non-compliance to the Principal Chief, National Council and applicable Boards.

#### **§ 9-109. Preference in contracting and subcontracting**

In the award of contracts or subcontracts, whenever feasible, employers shall give preference to Indian organizations and to Indian-owned economic enterprises as defined in this Title. The TERO staff shall maintain and publish a list of Indian organizations and Indian-owned economic enterprises which shall be supplied to the employers for their use.

#### **§ 9-110. Preference in Promotions**

Every employer shall, in accordance with the TERO regulations, give Muscogee (Creek) Citizens and Citizens of other Federally Recognized Tribes preferential consideration for all promotion opportunities and shall encourage Muscogee (Creek) Citizens and Citizens of other Federally Recognized Tribes to seek such opportunities.

- A. Primary preference to Muscogee Citizens.
- B. Second preference to other Tribal Citizens.

#### **§ 9-111. Preference in employment of students**

Employers shall give Muscogee (Creek) Citizen students and other Citizens of Federally Recognized Tribes student's preferential consideration for summer student employment. The employer shall make every effort to promote after-school, summer, and vacation employment for Muscogee (Creek) Citizen students and other Citizens of Federally Recognized Tribes students.

#### **§ 9-112. Establishment and review of numerical goals for employment generally**

- A. The TERO may establish the minimum number of Muscogee (Creek) Citizens and Citizens of other Federally Recognized Tribes each employer shall employ on its work force during any year that the employer or any of its employees are located or engaged in work within Muscogee (Creek) Nation Indian Country. Numerical goals may be set for each craft, skill, job classification, etc. used by the employer and shall include, but not limited to, administrative, supervisory and professional categories. The goals shall be expressed in terms of man-hours worked by the employer's work force in the job classification involved.
- B. For both new and existing employers, the goals shall be reviewed by the TERO staff at least annually and shall be revised as necessary to reflect changes in the number of Muscogee (Creek) Citizens and Citizens of other Federally Recognized Tribes available or changes in employer hiring plans. Each employer shall submit a monthly report to TERO on a form provided by the TERO staff, including the number of Muscogee (Creek) Citizens and Citizens of other Federally Recognized Tribes in the employers work force, the progress towards the employer's goals, all persons hired during the month, the job positions involved, and other information required by the TERO Office.

#### **§ 9-113. Participation in training programs by employers**

Employers may be required by the TERO to participate in training programs to assist Muscogee (Creek) Citizens and other Citizens of Federally Recognized Tribes ("Citizens") to become

qualified in the various job classifications used by the employer. The ratio of Citizens trainees to fully qualified workers shall be set by the TERO after consultation with the employer.

**§ 9-114. Establishment by the TERO staff of counseling and other support programs; Cooperation by employers**

The TERO may establish counseling and other support programs to assist Muscogee (Creek) Citizens and Citizens of other Federally Recognized Tribes in obtaining and retaining employment. Every employer shall be required to cooperate with the TERO regarding such counseling and support programs.

**§ 9-115. Use of job qualification criteria and personnel requirements by employers**

Employers are prohibited from using job-qualification criteria or personnel requirements which bar Muscogee (Creek) Citizens and Citizens of other Federally Recognized Tribes from employment unless such criteria or requirements are required by business necessity.

**§ 9-116. Implementation of layoffs and reductions in force by employers**

In all layoffs and reductions in force, employers shall maintain the required ratio of Muscogee (Creek) Citizens and Citizens of other Federally Recognized Tribes employees.

**§ 9-117. Duties of contractors and subcontractors; Liabilities of employers for violations of by contractors and subcontractors**

The Muscogee (Creek) Citizens and other Citizens of Federally Recognized Tribes (Indian) preference requirements contained in this Title shall be binding on all contractors and subcontractors of employers, regardless of tier, and shall be deemed a part of all contract and subcontract specifications. The employer shall be subject to penalties provided herein for violation of this Title if the contractor or subcontractor fails to comply.

**§ 9-118. Establishment and administration of job bank; Recruitment and hiring of personnel by employers**

The TERO may establish and administer a Job Bank to assist employers in placing Muscogee (Creek) Citizens and Citizens of other Federally Recognized Tribes in job positions. An employer may recruit and hire workers from whatever process the employer chooses, as long as the

employer complies with this Title and Indian job preference regulations and agreements pertaining to the employer.

## **HOW TO PARTICIPATE IN THE JOB BANK – EMPLOYEES**

### **Applications Required**

1. Each person applying to be listed in the Tribal Job Bank must fill out a Tribal Job Bank Application form. The applicant must provide a copy of a Tribal Enrollment Card. The applicant should attach any certifications or special licenses possessed.
2. Completed forms with Tribal Enrollment Card must be submitted to TERO.
3. Information presented will be reviewed and verified by TERO Staff.
4. Upon satisfactory review, TERO Staff will enter the participant's relevant information into the Tribal Job Bank.

### **Information Updates**

1. Twice a year, TERO Staff shall review each participant's information and request updates.
2. Participants must provide the information requested. If the participant fails to provide the information within (30) calendar days of the request the participant will be deemed inactive and he or she will have to complete a new Job Bank Application form to be reinstated to active status in the Job Bank.

### **Placement**

1. TERO will attempt to place Job Bank participants as job opening become available.
2. If a participant does not respond after three (3) attempts by the TERO Staff to update information, the participant will be deemed inactive. To be restored to active status, the participant must complete a new Tribal Job Bank Application form.
3. If a participant accepts a job but is released for cause he or she will be suspended from the Job Bank for thirty (30) calendar days from the date of release for the first occurrence, and he or she may not be reinstated during that time. A second occurrence within one (1) year will result in suspension from the Job Bank for ninety (90) calendar days, with no reinstatement during that time. A third occurrence within one (1) year will result in suspension for one-hundred eighty (180) calendar days, with no reinstatement during that time. After each suspension, to be reinstated the participant must contact the TERO Office to update and reinstate the Job Bank Application.



Participants must keep their Job Bank file updated. They must notify TERO of any changes in participant information such as change of name, address, phone number or additional training received.

### **RESPONSIBILITIES OF EMPLOYEE PARTICIPANTS**

#### **Self-Promotion**

1. Participants of the Tribal Job Bank are responsible for self-promotion and shall make efforts to establish positive contacts and relationships with prospective employers.
2. Participants, if offered a job, shall understand and comply with all rules and policies of the employer.
3. Participants shall make efforts to take advantage of promotion opportunities presented by the employer.

#### **Training**

1. Participants are encouraged to attend additional classes or trainings offered by TERO and/or covered employers.

#### **Notification to TERO**

1. Participants must notify TERO when they accept or decline a job offer made by a covered employer.

#### **Immediate Removal**

Failure to adhere to any of the regulations will result in immediate removal from the Job Bank. A participant that is removed may request time in front of the Committee to appeal the decision of the TERO Staff. This appeal must be requested within thirty (30) calendar days of notification that he or she has been removed from the Job Bank. IF there is no appeal or the decision of the Director is upheld, a participant will not be able to participate for six (6) months.

### **JOB BANK UPDATES**

The Tribal Job Bank shall be maintained by TERO and updated as needed. The Tribal Job Bank shall contain at a minimum participants' information including name, address, phone numbers and job preferences. Each participant shall be identified as an enrolled member of a Federally Recognized Tribe.

## **HOW TO PARTICIPATE IN THE JOB BANK – EMPLOYERS**

Covered employers are required to utilize the Job Bank and comply with the Tribal Employment Rights Office Act. Preference must be given to qualified Native Americans with first preference to Muscogee (Creek) Citizens provided in NCA 12-198, NCA 13-113, NCA 14-026 AND NCA 14-159 of the Muscogee (Creek) Nation Annotated Code. Covered employers shall not discriminate against any employee on the basis of gender, age, disability, or religion.

### **Order of Preference**

Preference shall be given in the following order: (1) enrolled Muscogee (Creek) Citizens and (2) members of other Federally Recognized Tribes.

### **Employers Must Notify TERO**

1. Covered employers must notify TERO of all job openings and must submit to TERO job descriptions, application forms and other relevant information. If a covered employer advertises the job, the advertisement must state that preference will be given.
2. The TERO Staff must be given a reasonable time to search the Tribal Job Bank to match participants to job openings. For construction jobs, TERO shall have 48 hours to locate, and an additional 12 hours to refer a qualified participant. For all other jobs, TERO shall have up to five (5) business days. In emergencies, TERO will attempt to locate a qualified participant within a time frame specified by the covered employer.

### **Referral by TERO**

1. Participants whom TERO believes are qualified for the job will be referred by TERO to the covered employer for an interview. The covered employer shall give full consideration to these persons.
2. If TERO is unable to locate and refer sufficient qualified participants to meet the covered employer's needs within five (5) business days, the covered employer may recruit and hire employees who are not listed in the Job Bank.

### **Employers Determine Who Is Qualified**

The covered employer does not have to hire or employ a Job Bank participant who, in the employer's analysis, is not qualified to do the work. This decision should be made in good faith and the employer must have valid reasons for not hiring a Job Bank referral.

### **Training**

1. Covered employers, as requested by TERO, shall participate in training programs to assist Job Bank participants to become qualified in various job classifications. Covered employers may provide on-the-job training at their discretion, provided trainees or apprentices are employed as provided below.
2. If engaged in the construction and the building trades, covered employers shall employ the maximum number of trainees or apprentices possible and appropriate for the job.

#### Other Preference Obligations

1. Promotions – Covered employers shall give Native Americans a preference for promotions. Natives shall be encouraged to seek promotions. If Non-Natives are promoted to supervisory positions during the time the covered employer must comply with this policy, the covered employer shall provide to TERO, within thirty (30) calendar days of the promotion, a report describing what Job Bank participants, if any, applied for or were considered for the promotion, the reasons they were not given the promotion, and what efforts the covered employer made to inform Job Bank participants workers about the opportunity.
2. Layoffs – If all qualifications are equal between a Native American employee and a Non-Native employee, and if layoffs or reductions in force are necessary, Native Americans shall be retained.
3. Summer Students – Native Americans shall be given preference in hiring as summer student help. Appropriate covered employers shall make reasonable efforts to promote after school summer, and vacation employment for Native youth.

#### Contracts/Subcontracts

1. The Native American preference requirements expressed in Tribal law and this policy are binding on all contracts and subcontracts of a covered employer. The covered employer has the initial and primary responsibility for insuring that all contractors and subcontractors comply with the requirements and this policy.
2. All bid announcements and/or contract and subcontract specifications issued shall contain a statement that the successful bidder will be obligated to comply with the Employment Preference Law and that the bidder may contact TERO to obtain additional information.

#### Compliance Plans

Compliance plans of contracts shall contain a statement of goals in adhering to Native American preference and standards for proving a good faith effort to in compliance.

#### Reporting

1. Covered employers must send to TERO a monthly report, when applicable, identifying interviewees, results of interview, and position and wage if hired.
2. When there is a change in employment status for an employee referred by TERO such as layoff, termination or promotion, the covered employer must send notice of the change to TERO.

### **COMPLAINTS**

A complaint may be filed by any Native American, group, or representatives who believe that a covered employer has not complied with the Employee Preference Law or this policy, or who believe that they have been discriminated against because they are Native American.

1. A Complaint Form shall be completed providing sufficient information pertaining to the complaint to allow a TERO Compliance Monitor to identify and research the complaint. Such information shall include date, time and location of the occurrence, identification of all involved parties, the reason for the complaint and other pertinent information.
2. The Complaint Form must be completed, signed and filed with the TERO Office preferably within thirty (30) calendar days.
3. Upon receipt of a completed Complaint Form the TERO Compliance Monitor will assign a number and log the complaint and will review the complaint to determine all necessary action.
4. If the TERO Compliance Monitor determines that no action is necessary based on the information provided, the complaint shall be dismissed and a written response will be provided to the complainant within five (5) business days of the date the complaint was filed.
5. If the TERO Compliance Monitor determines that there is sufficient information to warrant an investigation, an investigation shall be initiated within five (5) business days of the date the complaint was filed.
6. A Compliance Monitor may choose not to proceed with a formal investigation if a preliminary investigation reveals that a Job Bank participant has been dismissed for:
  - a. An act related to alcohol or drugs; or
  - b. Has a job record that reveals habitual tardiness or absences; or
  - c. Employer can show that the employee has been given numerous chances to become a dependable, productive worker and has continuously failed.

### **INVESTIGATIONS**

The TERO Compliance Monitor shall perform investigations, on his own initiative or pursuant to a written complaint, within the territory of the Muscogee (Creek) Nation to determine whether a violation of the Tribal employment preference law. The Compliance Monitor may enter,

during business hours, the place of business or employment of any covered employer for the purpose of the investigation and may require the submission of reports to monitor compliance.

1. When performing an investigation, the TERO Compliance Monitor shall contact all parties to a complaint including the alleged violator and any witnesses. If the complaint involves a Tribal division or program the TERO Compliance Monitor shall contact the Tribal Director and Program Manager of the division and program at issue.
2. Interviews may be conducted in person to obtain necessary information to facilitate the investigation. The TERO Compliance Monitor has the authority to inspect and copy all relevant records, to speak with workers on the job site, and to engage in other investigatory activities. Information obtained by the TERO Compliance Monitor shall be kept confidential if treated as such by a party to the complaint, unless disclosure is required for further investigation or during a hearing or appeal as provided for in NCA 12-198, NCA 13-113, NCA 14-026 AND NCA 14-159.
3. The TERO Compliance Monitor shall document all activities of an investigation including names, dates and time of interviews and information collected using an investigation form.
4. If no violation is found, the Compliance Monitor shall provide a written notice to all parties within five (5) business days of concluding the investigation, including the Directors and Program Managers at issue.

#### **WHAT DOES NOT APPLY TO THE TRIBE**

This Title does not provide any cause of action for employees of the Muscogee (Creek) Nation its entities or wholly owned companies.

#### **ENFORCEMENT**

1. If the Compliance Monitor has reason to believe that a violation has occurred, the Compliance Monitor shall attempt to informally settle the matter presented by the violation within five (5) business days. The appropriate parties shall be included in such attempts to informally settle the matter.
2. Terms of informal settlements shall be written and signed by the complainant and alleged violator. If either party is an employee of the Tribe or a Tribal entity, the appropriate Tribal Director and Program Manager shall also sign.
3. If the alleged violator fails to abide by the terms of the settlement during a six (6) month period, the original violation shall be reinstated.
4. If an informal settlement cannot be reached, the TERO Director or Compliance Monitor shall write a formal notice of non-compliance to the alleged violator, with copies to the appropriate Tribal Director and Program Manager, if the Tribe or a Tribal entity is

involved. The alleged violator shall be advised of the right to request a hearing before the Committee.

5. The alleged violator must exercise the right to request a hearing within ten (10) working days from the receipt date of the written formal notice of non-compliance.
6. If the alleged violator does not request a hearing, the TERO Director or Compliance Monitor shall present the notice on non-compliance to the Committee for review and further action. Written notification of the Committees action shall be provided to the appropriate parties within five (5) working days of the Committee's decision.

### **HEARINGS**

If an employer or person feels aggrieved by a decision made by the TERO they may appeal that decision to the TERO Appeals Board. The TERO Appeals Board shall hold a hearing in accordance with this Act and will either confirm or deny the TERO decision.

- A. Hearings shall be governed by the following rules and procedure:
  1. All parties may present testimony of witnesses and other evidence and may be represented by counsel at their expense.
  2. The Appeals Board may have the advice and assistance at the hearing of counsel which shall be provided by the Nation.
  3. The chairman of the Board or the vice-chairman shall preside and the Board shall proceed to ascertain the facts in a reasonable and orderly fashion.
  4. The Hearing may be adjourned, postponed and continued at the discretion of the Board.
- B. At the final close of the hearings, the board may take immediate action or take the matter under advisement.
- C. The Board shall notify all parties forty-five (45) days after the last hearing or of its decision in the matter.
- D. The Board shall conclude this process within ninety (90) days of the request for hearing.

### **§ 9-128. Notice of Hearings**

- A. The TERO Appeals Board shall have the power and duty to hear employer appeals of TERO decisions denying certification of the employer as an Indian Owned Economic Enterprise. The TERO Appeals Board shall have the power to either affirm or reverse the TERO Certification decision, but will not have the power to award any other form of remedy in the cases brought to this title.
- B. The TERO Appeals Board shall have the power to create rules as may be necessary to perform the duties and functions delegated to the TERO Appeals Board.

1. If a hearing is requested by the Board, an individual, an employer, or union pursuant to this section, a written notice of the hearing shall be given to all concerned parties stating the nature of the hearing and the evidence to be presented.
2. The notice shall advise such parties of their right to be present at the hearing, to present the testimony of witnesses and other evidence and to be represented by counsel at their own expense.

### **APPEALS**

- A. Any party to a hearing shall have the right to appeal any decision of the Appeals Board to the District Trial Court of the Muscogee (Creek) Nation.
- B. Standard Review. The District Trial Court shall review decisions of the TERO Appeals Board without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the TERO Appeals Board, not shown in the record, testimony thereon may be taken by the District Trial Court, upon request, shall hear oral arguments and receive written briefs.
- C. Appeals of the decisions of the District Trial Court may be taken in the Supreme Court under the rules and procedures governing civil appeals before that Supreme Court.

### **PENALTIES FOR VIOLATIONS**

- A. Any employer, contractor, subcontractor or union who violates this Title or rules, regulations or orders of the TERO shall be subject to penalties for the violation, including, but not limited to:
  1. Denial of the right to commence or continue business within the jurisdiction of the Muscogee (Creek) Nation.
  2. Suspension of operations within the jurisdiction of the Muscogee (Creek) Nation.
  3. Payment of back pay and damages to compensate any injured party.
  4. An Order to summarily remove employees hired in violation of this Title or rules, regulations or orders of the TERO.
  5. Imposition of monetary civil penalties.
  6. Prohibition from engaging in future operations within the Muscogee (Creek) Nation boundaries.
  7. An order requiring employment, promotion, and training of Muscogee (Creek) Citizens and Citizens of other Federally Recognized Tribes injured in the violation.
  8. An order requiring changes in procedures and policies necessary to eliminate the violation.
  9. An order making any other provision deemed necessary to alleviate, eliminate, or compensate for any violation.

- B. The Maximum monetary penalty which may be imposed is Five Thousand Dollars (\$5,000.00) for each violation. The penalties will be graduated as follows:
  - 1. The first violation will incur a fine of Two Hundred Dollars (\$200.00).
  - 2. The second violation will incur a fine of One Thousand Dollars (\$1,000.00).
  - 3. The third violation will incur a fine of Five Thousand Dollars (\$5,000.00).
- C. Each day during which a violation exists shall constitute a separate violation.
- D. Monetary penalties assessed by TERO may be doubled if it is shown that the violation occurred egregiously or with reckless or wanton behavior.
- E. Attorney fees and cost of pursuing or defending an action of the TERO may be awarded to the prevailing party.

### **CONFIDENTIALITY**

Except as provided in the section, information obtained by the Committee and TERO shall be kept confidential if treated as confidential by a party thereto, unless disclosure is required for further investigation, or during a hearing or appeal as provided for in NCA 12-198, NCA 13-113, NCA 14-026 AND NCA 14-159. The Committee and TERO shall be sensitive to the confidentiality needs of the parties that come before them and shall attempt to accommodate reasonable requests to keep information confidential. However, request for or claims of confidentiality shall not be permitted to hamper the Committee and TERO in the performance of duties.

Nothing in this Act shall be construed as a waiver of the Tribe's sovereign immunity.